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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

CARTER, CANDICE D

ART UNIT

PAPER NUMBER

3629

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/697,739	<b>Applicant(s)</b> WHITE ET AL.	
	<b>Examiner</b> CANDICE D. CARTER	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-14, 16-23 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-14, 16-23 and 25-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This communication is a First Action Non-Final on the merits. Claims 1-5, 7-14, 16-23, and 25-27, are currently pending and have been considered below.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 20, 2008 has been entered.

#### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. **Claims 1-5, 7-14, 16-23, and 25-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

Claims 1-5, and 7-9 are directed towards a method for verifying solutions provided by a solution network consisting essentially of process steps that are not tied to another statutory class.

Examiner contends that a process must be (1) tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. Examiner asserts that the fact that a

Art Unit: 3629

process may be "automatic" does not positively claim technology within the claims, thus, neither of these requirements as set forth by this title is met by these claims. Therefore, these claims do not qualify as a statutory process.

Claims 10-14 and 16-18 are directed towards an apparatus for verifying solutions provided by a solution network. The "means for" language within claims is not recited as having corresponding structure other than software modules in the specification and given its broadest reasonable interpretation can be construed as nothing more than a program code. Therefore, the claims are directed to nothing more than a program code per se and are not statutory.

Claims 19-23 and 25-27 are directed towards a system for verifying solutions provided by a solution network consisting essentially of software modules. The term "module" is not recited as having corresponding structure in the specification and given its broadest reasonable interpretation can be construed as nothing more than program code. Therefore the claims are directed to nothing more than a program code per se and are non-statutory.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3629

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**2. Claims 1, 2, 9 - 11, 18 - 20, and 27 rejected under 35 U.S.C. 103(a) as being unpatentable over Buffalo et al. US 6,957,257 (hereinafter referred to as Buffalo).**

With respect to claims 1, 10 and 19, Buffalo discloses a method, apparatus and system for verifying solution provided by a solution network (testing to determine whether problem has been fixed, See Abstract)

automatically associating a call from a customer with a solution that is provide to the customer to solve an issue (a ticket is generated regarding a customer repair request, C4 L19-27)

waiting a predetermined amount of time to verify whether the customer contacts the solution network again in a further attempt to resolve the issue (once a problem has been resolved, the e-maintenance system waits 24hours to close a ticket out if unable to contact customer, C6 L25-36, thereby giving the customer time to contact the system); and

indicating a successful resolution to the issue if no contact is made by the customer in an attempt to resolve an issue within the predetermined amount of time (inherently disclosed as the reference provides that the tickets are placed in queue to be

Art Unit: 3629

closed out in 24 hours if no response is received from the customer, C6 L25-36, close out of a ticket is interpreted to be synonymous with a determination of successful resolution of the issue, C6 L37-40 and C2 L27-31).

Buffalo, however, fails to explicitly disclose indicating an unsuccessful resolution to the issue by the solution if the customer contacts the solution network within the predetermined amount of time in the further attempt to resolve the issue.

It would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the customer service maintenance automation of Buffalo to include indicating an unsuccessful resolution to the issue by the solution if the customer contacts the solution network within the predetermined amount of time in the further attempt to resolve the issue because it is old and well known to keep an ongoing repair or operational record or history of a particular machine or product in order to document the current status of the particular machine or product to be repaired.

For example, the Buffalo reference discloses that the customer may communicate to the system confirming that the trouble has been fixed. Upon receiving such communication the system will close out the customer's ticket indicating that there has been a successful resolution to the trouble that was previously reported by the customer (via C2 L27-34). Similarly, the customer may communicate to the system that the trouble has not been successfully resolved, either by responding to communication from the system or contacting the system themselves. In the event that the trouble has not been solved, the ticket will remain open as an indication that the trouble has not

Art Unit: 3629

been resolved and that any solution attempts recorded in a repair or operational history has been unsuccessful to solve the problem that the customer reported to the system.

And verifying the solution based upon the indicating a successful solution (C5 L1-5 discloses that the automatic verification program may be utilized to run tests to determine if an access provider has fixed the problem that is being reported as cleared).

With respect to claims 2, 11 and 20, Buffalo discloses the waiting is based on customer experience metrics (interpreted to be the waiting period of 24 hours disclosed by the reference, C6 L25-36).

With respect to claims 9, 18 and 27, Buffalo discloses wherein the issue relates to information handling systems (reference relates automatic customer service maintenance in a communications network, C1 L5-11).

**3. Claims 3-5, 12-4, 21-23, are rejected under 35 U.S.C. 103(a) as being unpatentable over Buffalo as applied to claims 1, 10, and 19 above, and further in view Heckerman et al. US 5,715,374 (hereinafter referred to as "Heckerman").**

With respect to claims 3, 12 and 21, Heckerman discloses a method, system and implicitly an apparatus (see abstract) wherein the indicating a successful resolution include incrementing a counter corresponding to the solution to indicate a successful solution (the reference discloses a belief network in a case based reasoning network, where probabilities of success of a solution are updated after the solving of each problem utilizing the solution, C17 L24-33, see also Fig. 12 and C16 L37-49).

With respect to claims 4, 13 and 22, Heckerman discloses a method, system and implicitly an apparatus (see abstract) further comprising scoring a solution based upon successful resolution of the issue; and wherein a higher score for a solution indicates a more successful solution (users are provided the option of selecting whether the issue was fixed by the recommended repair, and indicates whether each resolution was successful, C15 L20-27; and Fig. 10B, specifically 1018, 1022 and 1020).

With respect to claims 5, 14 and 23, Heckerman discloses a method, system and implicitly an apparatus (see abstract) wherein when a solution is indicated as a more successful solution, the solution is presented to a customer high on a list of available solutions (resolutions are listed in order of likelihood that each resolution will solved the current problem, C5 L39-46).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the ranking and scoring of solutions of Heckerman with the disclosure in Buffalo in order to provide a more useful and efficient method of solving problems for a user. In addition, Heckerman provides motivation for the combination of the two references by teaching that application of decision-support systems includes troubleshooting computer networks, customer service or other systems where a decision is based up identifiable criteria (C1 L20-24).

4. **Claims 7, 8, 16, 17, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buffalo as applied to claims 1,6, 10, 15, 19 and 24 above, and further in view of Sullivan et al. Us 6,615,240 (hereinafter referred to as "Sullivan").**



With respect to claims 7, 16 and 25, Sullivan discloses a method and implicitly a system and an apparatus (see abstract) wherein if the solution is indicated as unsuccessful, then escalating the solution into a correction workflow (in the situation where self-help has not succeeded satisfactorily and escalation to a support center is necessary, C2 L37-42, the support center is interpreted by the examiner to be synonymous with a correction workflow).

With respect to claims 8, 17 and 26, Sullivan discloses a method and implicitly a system and an apparatus (see abstract) wherein when the solution is escalated into a correction workflow, a product specialist reviews the solution for any needed correction (a user may first attempt self-help and then escalate to seek live-help from a technical support engineer, C5 L1-4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the escalation procedures of Sullivan with the disclosure in Buffalo in order to provide a more useful and efficient method of solving problems for a user. In addition, Sullivan provides motivation for the combination of the two references by teaching that the disclosure relates to automated customer support and service in a distributed computer environment (C1 L11-15).

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1, 10, and 19 with respect to the newly added limitations have been considered but are moot in view of the new ground(s) of rejection. See rejection of claims 1, 10, and 19.

With respect to Applicant's argument that Buffalo is not a disclosure or a suggestion of indicating a successful solution, Examiner respectfully disagrees. Buffalo discloses in C2 L27-34 that the automatic closing program automatically closes out a ticket when tickets have been successfully "turned up" to the customer, where this occurs only if the trouble has been indicated as fixed, therefore, the mere fact that the ticket has been closed suggests that the trouble has been resolved, thereby, indicating a successful solution. Applicant has failed to point out the supposed error in Examiner's rejection. Therefore in regards to this matter, Applicant's arguments are not persuasive.

With respect to claims 2-5, 7-9, 11-14, 16-18, 20-23, and 25-27, all rejections made towards the dependent claims are maintained due to a lack of reply by the applicant in regards to distinctly and specifically pointing out the supposed errors in the examiner's prior office action (37 CFR 1.111).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CANDICE D. CARTER whose telephone number is (571) 270-5105. The examiner can normally be reached on Monday thru Thursday 7:30am- 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3629

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. D. C./  
Examiner, Art Unit 3629

/John G. Weiss/  
Supervisory Patent Examiner, Art Unit 3629